IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO.2521 OF 2005

Khimji Poonja & Company ...Appellant

vs.

The Municipal Corporation
of Greater Mumbai ...Respondent

Mr.V.A.Thorat, Senior Advocate with Mr.V.A.Rajput for the Appellant Mr.J.J.Xavier for the Respondent-B.M.C.

CORAM: A.S.OKA, J.
DATED: AUGUST 4, 2006.

P.C.:

1. Admit. Respondent waives service. Shri Xavier appearing for the Respondent-Corporation on instructions states that Assistant Commissioner of B Ward of the Respondent-Corporation will give hearing to the Appellant on notices dated 10th December 1982 (Exh.A and B to the plaint in L.C.Suit No.726 of 1983) issued under section 89 read with section 165 of the Maharashtra Regional Town Planning Act, 1966 and will pass a reasoned order. He states that a representation against the said notices is already submitted by the Appellant. Shri Thorat for the Appellant states that the Appellant may be permitted to file an additional reply.

2. The challenge in the suit filed by the Appellant is to the aforesaid two notices. As the Respondent-Corporation has

agreed to give hearing and to pass reasoned order, the Appeal can be disposed of by passing the following order :

i) Impugned Judgment and Decree is set aside.

ii) It will be open for the Appellant to file additional reply together with all relevant documents within a period of four weeks from today. The Assistant Commissioner of B Ward of the Respondent-Corporation will pass a reasoned order after considering the representation which is already made by the Appellant and additional reply, if any, together with all the documents filed by the Appellant. The reasoned order shall be passed within a period of twelve weeks from today.

iii) For a period of eighteen weeks from today, both the parties will maintain status quo as of today in respect of the disputed property.

iv) All contentions of the parties are expressly kept open.

v) The suit is disposed of accordingly.

vi) Appeal is disposed of in above terms.

. Parties to act upon an authenticated copy of this order.

Judge.